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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,007	02/07/2002	Mark W. Chutich	10275/03501	1960

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EXAMINER

DAVIS, ROBERT B

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 02/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,007

Applicant(s)

CHUTICH ET AL.

Examiner

Robert B. Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 37-47 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-36 is/are allowed.
- 6) ☒ Claim(s) 1-7, 11, 12 and 14-19 is/are rejected.
- 7) ☒ Claim(s) 8-10, 13 and 20-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 42902.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, claims 1-36, in the Paper submitted 11/12/2003 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 37-47 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the Paper submitted 11/12/2003.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-7, 11, 12, 14 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Campo et al (5,723,517: figure 1; column 2, lines 16-27; column 4, lines 18-32 and 54-60; column 5, lines 7-18; and column 10, lines 41-55).

Campo et al teach an apparatus for adding a coloring agent to an extruded material comprising: an extrusion container (140) having a plurality of holes in a sidewall thereof (column 10, lines 53-55), please note that only one hole is shown in figure 1 as being connected to a plurality of coloring agent supply containers in coloring agent

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supply (130), a computer which has a storage device which contains a predetermined target color (column 15, line 61 to column 16, line 11), and a controller which compares a measured color to the predetermined color and then adjusting the coloring additive federate. The reference clearly states that separate feed lines for separate coloring additives are linked to the extrusion cylinder (column 10, lines 53-55).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2, 3 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campo et al taken together with Rhodes (2,694,224: figures 1, 3 and 8; column 7, lines 53-67 and column 10, lines 32-51 and 67-76).

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Campo et al disclose all claimed features except for the feed opening to the extrusion cylinder being closer to the outlet than the inlet.

Rhodes discloses an extrusion cylinder (12) having multiple feed inlets (143, 142, 141 in figure 3; and 205, 206', 206 in figure 8). Feed inlets (141 and 206) are closer to the outlet than the inlet of the cylinder.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the apparatus of Campo et al by having one of a plurality of openings in an extrusion cylinder to be positioned closer to the outlet of the cylinder as disclosed by Rhodes for the purpose of distributing the feed along the extrusion cylinder.

Allowable Subject Matter

8. Claims 8-10, 13 and 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 24-36 are allowed over the prior art of record.

10. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record teaches or suggests a protruding rim above the hole into the cylinder in an apparatus as claimed in claim 1. In regards to claim 24, none of the prior art of record teaches or suggests a sensor, which senses a condition of a portion of the colorant supply in combination with the remaining elements of the claim. Campo et al disclose feedback control based on the color of the product.

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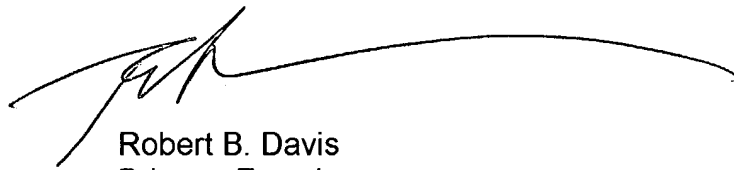
Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining references show the state of the art in colorant addition to extruders and vertical extruders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Davis whose telephone number is 571-272-1129. The examiner can normally be reached on Monday-Friday 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0987.



Robert B. Davis
Primary Examiner
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1/26/04